

MEMO ENDORSED



USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 2/20/2020

JAMES E. JOHNSON
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET, Rm. 3-137
NEW YORK, NY 10007

GIANCARLO MARTINEZ
Assistant Corporation Counsel
Phone: (212) 356-3541
Fax: (212) 356-3509
gmartine@law.nyc.gov

February 20, 2020

BY ECF

Honorable Judge Valerie E. Caproni
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: Zahirah Medina v. City of New York, et al., 20 Civ. 797 (VEC)

Your Honor:

I am an Assistant Corporation Counsel in the Office of James E. Johnson, Corporation Counsel of the City of New York, and the attorney assigned to the defense of the City of New York ("City") in the above-referenced matter. I write to request a 60 day enlargement of time for the City to respond to the Complaint, from February 25, 2020, until April 24, 2020. Further, the City also requests that the Court will apply this enlargement *sua sponte* to the named defendant, Officer Christopher Wintermute. No enlargement request is being made for Officer Wintermute, as this Office has not yet been able to determine whether it is capable of representing him. Additionally, the City requests an adjournment of the Initial Conference, currently set for March 13, 2020 at 10:00 a.m., to a date convenient to the Court after April 24, 2020. This is the City's first request for an enlargement of time and to adjourn the Initial Conference, and plaintiff's counsel consents to both requests.

The reason for these requests is that, pursuant to Section 50-k of the New York General Municipal Law, this Office must determine, based on a review of the facts of the case, whether we may represent the aforementioned defendants. See General Municipal Law § 50(k). The defendants must then determine whether they wish to be represented by this Office. If they do, we must obtain their written consent. Only after this procedure has been followed can we determine how to proceed in this case. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486

N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

Accordingly, the City respectfully requests that the Court (1) extend all defendants' time to respond to the Complaint from February 25, 2020, until April 24, 2020, and adjourn the Initial Conference, currently scheduled for March 13, 2020 at 10:00 a.m., to a date convenient to the Court after April 24, 2020.

Thank you for your consideration herein.

Respectfully submitted,

/s/ Giancarlo Martinez

Giancarlo Martinez
Assistant Corporation Counsel
Special Federal Litigation Division

cc: All Counsel of Record (via ECF)

Application GRANTED. Defendants' time to respond to the Complaint is extended to **April 24, 2020**. The initial pretrial conference currently scheduled for March 13, 2020 is adjourned to **May 1, 2020 at 10:00 a.m.**

SO ORDERED.



2/20/2020

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE